

Exhibit D

1828838

CAUSE NO. _____

Walker County - 12th District Court

STEPHEN GAMBREL
Plaintiff

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IN THE _____ DISTRICT

VS.

COURT OF

MATTHEW BEAMON, JAMES STEPHENS
WALKER COUNTY SHERIFF
And WALKER COUNTY
Defendants

WALKER COUNTY, TEXAS

A TRUE COPY I CERTIFY UNDER MY HAND
AND SEAL OF OFFICE.
ROBYN FLOWERS CLERK DISTRICT COURT
WALKER COUNTY, TEXAS.

BY  DEPUTY.

PLAINTIFF'S ORIGINAL PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES, STEPHEN GAMBREL, Plaintiff, complaining of Walker County Jail Detention Officers, MATTHEW DERRICK BEAMON and JAMES DUSTIN STEPHENS, Defendants, in their individual capacities, Walker County Sheriff CLINT MCRAE and Walker County and for cause of actions as follows:

I. JURISDICTION AND VENUE

This court has jurisdiction over Plaintiff's state law claims and supplemental jurisdiction over federal claims, under the Civil Rights Act of 1871 pursuant to 28 U.S.C. §§1331 and 28 U.S.C. §1343. Jurisdiction under *Haywood v. Brown*, 556 U.S. 729,731 (2009); *Patsy v. Board of Regents of Florida*, 457 U.S. 496, 506-07 (1982).

This suit involves declaratory and monetary relief totaling not more than \$1,000,000.00 excluding court costs, prejudgment interest, and attorney fees.

Venue is proper in Walker County as the cause of action made the basis of this case accrued in Huntsville, Walker County, Texas.

II. NATURE OF THE CASE

STEPHEN GAMBREL, while and inmate in the Walker County Jail, was struck, repeatedly, in the face by Walker County Jail Detention Officers MATTHEW DERRICK BEAMON and JAMES DUSTIN STEPHENS. Additionally, they banged his head onto the cement floor. The conduct of MATTHEW DERRICK BEAMON and JAMES DUSTIN STEPHENS caused STEPHEN GAMBREL to be hospitalized at Huntsville Memorial Hospital,

Filed: 7/13/2018 11:41 PM
Robyn M. Flowers
District Clerk
Walker County, Texas
Melissa Fuentes

He suffered serious and traumatic injuries. Both MATTHEW DERRICK BEAMON and JAMES DUSTIN STEPHENS have been charged with Official Oppression, a felony, and are currently awaiting criminal trials in Walker County.

Plaintiff brings this action pursuant to the Texas Constitution Article 1, Sec. 19, Deprivation of Life and Article I, Sec, 7, Search and Seizure, 42 U.S.C. §§1983, 1985, and 1988. We are seeking redress and recovery for violations of the constitutionally protected rights of STEPHEN GAMBREL. Specifically, Plaintiff, alleges that Defendants violated STEPHEN GAMBREL's rights under the Texas Constitution and the U.S. Constitution to be secure in his person and be free of unreasonable, unjustified, and excessive use of force and the United States Constitution's 4th and 14th Amendment rights of life, liberty, and due process.

III. PARTIES AND SERVICE

Plaintiff, STEPHEN GAMBREL, is a resident of Walker County, Texas.

Defendant, MATTHEW DERRICK BEAMON and JAMES DUSTIN STEPHENS, are individuals who were employed by Walker County as a Jailers and are sued in their individual capacities and acting under the color of law. They are "persons" under 42 U.S.C. §1983 and all times relevant to this case acted under the color of law. They may be served and

Defendant, CLINT MCRAE, is an individual employed by Walker County as Walker County Sheriff and is being sued in his individual capacity and acting under the color of law. He is a "person" under 42 U.S.C. §1983 and at all times relevant to this case acted under the color of law. Defendant may be personally served with process at 717 FM 2821 Rd W Ste 500, Huntsville, Texas 77320.

Defendant, Walker County, is a local government subjected to monetary damage claims under 42 U.S.C. §1983 because its official policy, custom, or negligent hiring practices, caused STEPHEN GAMBREL to be deprived of state and federally-protected rights. *Monell v. Dept. of Social Services*, 436 U.S. 658, 694 (1978). Defendant may be served with process via County Judge at 1100 University Ave Huntsville, Texas 77340.

IV. DISCOVERY CONTROL PLAN

Pursuant to Texas Rule of Civil Procedure 190.2, Plaintiff intends that discovery be conducted under Discovery Level 2.

V. FACTUAL BACKGROUND

On or about July 21, 2016, STEPHEN GAMBREL was an inmate in the Walker County Jail. STEPHEN GAMBREL, while and inmate in the Walker County Jail, was struck in the face and head by Walker County Jail Detention Officers MATTHEW DERRICK BEAMON and JAMES DUSTIN STEPHENS. MATTHEW DERRICK BEAMON AND JAMES DUSTIN STEPHENS were acting in the course and scope of their employment with Walker county as Detention Officers. STEPHEN GAMBREL suffered serious and traumatic injuries which required that he be rushed to Huntsville Memorial Hospital. A letter of preservation was sent to the Walker County District Attorney's Office was sent on January 17, 2017.

The knowingly and intentional acts against STEPHEN GAMBREL were done under the color of law.

. VI. VIOLATIONS OF THE TEXAS CONSTITUTION, 4TH AMENDMENT, EIGHTH AMENDMENT, UNDER 42 USC 1983

Plaintiff re-alleges and restates the factual allegations contained in paragraphs above of this petition and incorporates each of said paragraphs herein by reference. STEPHEN GAMBREL posed no threat of danger to anyone in the Walker County jail facility. MATTHEW DERRICK BEAMON AND JAMES DUSTIN STEPHENS could not be viewed as acts of self-defense.

Texas constitutions Article 1, Section 19, states that no citizen of this State shall be deprived of life, liberty, property privileges or immunities, or in any manner disfranchised, except by the due course of law of the land. STEPHEN GAMBREL was deprived of his right to be free from cruel and unusual punishment and excessive force.

VII. CLAIMS, POLICY, HIRING PRACTICES, CUSTOM, PROCEDURE, RATIFICATION, AND ADOPTION

Plaintiff incorporates the proceeding paragraphs as if fully set forth herein.

Plaintiff had his rights violated and was injured due to the policies, hiring practices, customs, and procedures of Walker County, and Sheriff Clint McRae, Walker County, and policy makers within the Walker County Jail, including:

- Negligent hiring

- Failure to train
- Failure to discipline
- Failure to supervise

VIII. REQUEST FOR DISCLOSURE

Pursuant to Rule 194, request is made that each Defendant disclose within fifty (50) days of service of this request, the information or material described in Texas Rule of Civil Procedure 194.2(a)(1). Each Defendant must serve a written response to these Request for Disclosure on Plaintiff within fifty (50) days after the service of this request. A Defendant's failure to timely respond shall constitute an abuse of discovery pursuant to Texas Rule of Civil Procedure 215.

VIII. JURY DEMAND

Plaintiff demands trial by jury on all issues triable to a jury.

IX. DAMAGES

Award damages to the Plaintiff for the violations of his State and Federal rights. Award pre-judgment and post-judgment interest, finding that Plaintiff is the prevailing party in this case and award attorney's fees, expert fees and costs, pursuant to State and federal law.

X. RULE 193.7 NOTICE

Pursuant to Rule 193.7 of the Texas Rules Civil Procedure, each Plaintiff hereby gives actual notice to each Defendant that any and all documents produced may be used against the Defendant producing the document at any pretrial proceeding and/or at the trial of this matter without the necessity of authenticating the documents.

XI. PUNITIVE DAMAGES

Plaintiff incorporates the preceding paragraphs as if fully set forth herein.

All individuals sued are liable for punitive damages as they were deliberately indifferent to STEPHEN GAMBREL and they did act knowingly and intentionally. The conduct toward STEPHEN GAMBREL was extreme, outrageous, and shocking to the senses.

PRAYER

WHEREFORE, PREMISES CONSIDERED, each Plaintiff prays that each Defendant be cited in terms of law to appear and answer herein, that upon final trial and hearing hereof, that Plaintiffs recover damages in accordance with the evidence, that Plaintiffs recover costs of court herein expended, that Plaintiffs recover interest to which Plaintiffs are justly entitled under law, and such other further relief, both general and special, both in law and in equity, to which Plaintiffs may be justly entitled.

Respectfully submitted,

By: /s/ Frederick K. Wilson

LAW OFFICE OF FREDERICK WILSON
9100 Southwest Freeway, Suite 123
Houston, Texas 77074
Telephone: (832) 327-9854
Facsimile: (832) 327-9853
attorneyfrederickwilson@gmail.com
SBN: 24090471
ATTORNEY FOR PLAINTIFF

CAUSE NO. _____

STEPHEN GAMBREL
Plaintiff

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IN THE _____ DISTRICT

VS.

COURT OF

MATTHEW BEAMON, JAMES STEPHENS
WALKER COUNTY SHERIFF
And WALKER COUNTY
Defendants

WALKER COUNTY, TEXAS

PLAINTIFF'S WRITTEN REQUEST FOR PRODUCTION TO DEFENDANTS,
MATTHEW BEAMON, JAMES STEPHENS, WALKER COUNTY SHERIFF, AND
WALKER COUNTY REQUEST FOR PRIVILEGE LOG

TO: DEFENDANT, by and through their attorney of record, to be determined

COMES NOW, STEPHEN GAMBREL, Plaintiff in the above-styled and numbered cause and serves upon the above-named Defendant this Request for Production pursuant to Rule 196, respectively, of the Texas Rules of Civil Procedure.

You shall respond to the Request for Production in writing to counsel for Plaintiff and produce for inspection, copying, and reproduction the documents designated in the responses not later than thirty (30) days from service upon you. The Plaintiffs request that the documents be produced in the offices of Frederick K. Wilson II, 19901 Southwest Freeway, Suite 107, Sugar Land, Texas 77479.

Further, Plaintiff requests that you produce a privilege log pursuant to Rule 193.3(b) of the Texas Rules of Civil Procedure for any documents you withhold due to any privilege asserted in response to these requests that:

- 1). describes the information or materials withheld, that without revealing the privileged information itself or otherwise waiving the privilege, enables Plaintiff to assess the applicability of the privilege; and

2). asserts a specific privilege for each item or group of items withheld.

Plaintiff requests that such privilege log be provided within fifteen (15) days after your response to this Request for Production.

Additionally, demand is made for the supplementation of your answers to this Request for Production as required by the Texas Rules of Civil Procedure.

Respectfully submitted,

LAW OFFICE OF FREDERICK K WILSON

By: /s/ Frederick Wilson
9100 Southwest Freeway, Suite 123
Houston, Texas 77074
Telephone: (832) 327-9854
Facsimile: (832) 327-9853
attorneyfrederickwilson@gmail.com

SBN: 24090471
ATTORNEY FOR PLAINTIFF

CERTIFICATE OF SERVICE

Pursuant to Rules 21 and 21a of the Texas Rules of Civil Procedure, copies of this document were forwarded to all counsel of record on July 14, 2018 by e-filing, email, facsimile, regular mail or certified mail return receipt requested:

/s/ Frederick Wilson

FREDERICK K WILSON II

CLERK OF THE COURT	PLAINTIFF OR ATTORNEY FOR PLAINTIFF
ROBYN FLOWERS, District Clerk 1100 University Ave, Suite 209 Huntsville, Texas 77340 (936) 436-4972	FREDERICK K. WILSON 9100 SOUTHWEST FREEWAY SUITE 123 HOUSTON TX 77074 832-327-9854

CAUSE NO. 1828838

THE STATE OF TEXAS
CITATION FOR PERSONAL SERVICE

A TRUE COPY I CERTIFY UNDER MY HAND
AND SEAL OF OFFICE.
ROBYN FLOWERS CLERK DISTRICT COURT
WALKER COUNTY, TEXAS.
BY [Signature] DEPUTY.

NOTICE TO DEFENDANT: "You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by Ten O'clock (10:00) A.M. on the Monday next following the expiration of twenty (20) days after you were served this citation and petition, a default judgment may be taken against you."

T0: WALKER COUNTY - - DEFENDANT
THROUGH THE COUNTY JUDGE AT 1100 UNIVERSITY AVE, HUNTSVILLE, TEXAS 77340

GREETINGS: You are hereby commanded to appear before the 12th District Court of Walker County, Texas, to be held at the Courthouse of said County in Huntsville, Walker County, Texas, by filing a written answer to the Petition at or before Ten o'clock (10:00) A.M. on the Monday next after the expiration of twenty (20) days after the date of service hereof, a copy of **PLAINTIFF'S ORIGINAL PETITION**. Which accompanies this citation in Cause Number 1828838, filed on the docket of said Court on this date: July 13, 2018, and styled,

STEPHEN GAMBREL VS. MATTHEW BEAMON, JAMES STEPHENS, WALKER COUNTY SHERIFF AND WALKER COUNTY

The officer executing this writ shall serve the same according to the requirements of law, and the mandates thereof, and make due return as the law directs.
Issued and given under my hand and seal of said Court at Huntsville, Texas, this date: July 18, 2018

ROBYN FLOWERS, DISTRICT CLERK
WALKER COUNTY, TEXAS

By [Signature] Deputy

SERVICE OF CITATION RETURN

Came to hand on the 18 day of July, 2018, at 9:15 o'clock A.M.
and, executed at 1100 University Ave, Walker County, Texas, on the 25 day of July, 2018, at 2:15 o'clock P.M., by delivering to the within-named defendant, in person, a true copy of this Citation.

Walker County, Texas

[Signature] Constable/Deputy

Verification of Return (If not served by Peace Officer)

My name is _____, my date of birth _____, and my address is _____
I declare under penalty of perjury that the foregoing is true and correct.

Executed in _____ County, State of _____, on the _____ day of _____, 20____

_____, Declarant

Certified Process Server ID # _____, Expiration date _____

On this day personally appeared _____ known to me to be the person whose name is subscribed on the foregoing instrument and who has stated: upon penalty of perjury, I attest that the foregoing instrument has been executed by me in this cause pursuant to the TRCP. I am over the age of 18 years and I am not a party to or interested in the outcome of this suit, and have been authorized by the Walker County Courts to serve process.

Subscribed and sworn to me on this the _____ day of _____, 20____.

TIME 3
2 DAY OF Aug 2018

ROBYN FLOWERS

District Clerk, Walker County

By [Signature] Deputy

Notary Public

JUL 23 2018